

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, September 15, 2021**

**Hearing Room**

**5B**

9:30 AM

**8:00-000000**

**Chapter**

**#0.00    Hearings on this calendar will be conducted using ZoomGov video and audio.**

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**Chapter**

For more information on appearing before Judge Albert by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Theodor C. Albert's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert> under the "Telephonic Instructions" section.

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- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

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**Chapter**

Docket 0

**Tentative Ruling:**

- NONE LISTED -

**United States Bankruptcy Court  
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1:30 PM

**8:20-11560 Joe Anthony Santa Maria**

**Chapter 13**

**#1.00 Confirmation Of Chapter 13 Plan**

Docket 113

**Tentative Ruling:**

Tentative for 9/15/21:

The IRS objection must be dealt with and the amended plan seems to so do, but the court needs to hear that the IRS does not still object. Are payments current?

<b>Party Information</b>
--------------------------

**Debtor(s):**

Joe Anthony Santa Maria

Represented By  
Nicholas W Gebelt  
M. Jonathan Hayes

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:20-12166 Stephen F. Sturm**

**Chapter 13**

**#2.00 Confirmation Of Chapter 13 Plan  
(cont'd from 8-18-21)**

Docket 2

**Tentative Ruling:**

Tentative for 9/15/21:  
Status? A compromise motion was expected.

-----

Tentative for 8/18/21:  
Status on secured claim?

-----

Tentative for 5/19/21:  
It would seem a further continuance is in order in view of Mr. Cook's illness.  
How long should the confirmation be postponed? What is the issue about  
debtor's counsel holding the mortgage payments?

-----

Tentative for 4/14/21:  
Continue to May 19, 2021 @ 1:30PM to accommodate mediation.

-----

Tentative for 1/20/21:  
See #27. There remains a fundamental, unanswered question. Does Cook  
have a secured claim and do the promised payments equal that interest in  
present value terms. The parties should consider mediation to resolve this.  
Continue.

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**CONT...**

**Stephen F. Sturm**

**Chapter 13**

Tentative for 12/16/20:

The plan cannot be confirmed as filed for basic reasons. First, no treatment at all is described for the Cook secured claim, and treatment of all secured claims is a basic for plan confirmation. The fact that counsel has received some payments is not very persuasive. If there is to be an avoidance of the Cook claim, some reference to this must be made and described in the plan, but nothing appears. If allowance is made of the claim feasibility questions arise which also need to be addressed. Moreover, this is not a new case, so debtor should explain why dismissal is not indicated.

Deny. Appearance: required

-----

Tentative for 10/21/20:

The Equity 1 secured claim must be dealt with formally before a plan can be confirmed. The life estate reportedly owned by debtor must also be valued for "best interest" analysis as well. Appearance is required.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Stephen F. Sturm

Represented By  
Joseph A Weber

**Movant(s):**

Stephen F. Sturm

Represented By  
Joseph A Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-10943 Marina Leonidovna Weahunt**

**Chapter 13**

**#3.00 Confirmation Of Chapter 13 Plan  
(cont'd from 8-18-21)**

Docket 2

**Tentative Ruling:**

Tentative for 9/15/21:  
Is BMW objection resolved?

-----

Tentative for 8/18/21:  
See #27.

-----

Tentative for 6/16/21:  
Continue to July 28, 2021 for claims bar and in meantime the plan should be reformed to deal with BMW's point about full valued of collateral as a § 1325(a)(5) 'hanging paragraph' issue.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Marina Leonidovna Weahunt

Represented By  
Daniel King

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-11076 Leticia Nedeau**

**Chapter 13**

**#4.00 Confirmation Of Amended Chapter 13 Plan  
(cont'd from 8-18-21)**

Docket 18

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR - DEBTOR'S  
VOLUNTARY DISMISSAL FILED 9-07-21**

**Tentative Ruling:**

Tentative for 8/18/21:

Trustee's comments must be addressed. How can we confirm without  
addressing the IRS \$107,000+ secured claim?

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Tentative for 7/28/21:

Trustee's objections must be addressed.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Leticia Nedeau

Represented By  
Trang Phuong Nguyen

**Movant(s):**

Leticia Nedeau

Represented By  
Trang Phuong Nguyen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



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**8:21-11526 Timothy J. Neuman**

**Chapter 13**

**#5.00 Confirmation Of Chapter 13 Plan  
(cont'd from 8-18-21)**

Docket 2

**Tentative Ruling:**

Tentative for 9/15/21:

If interlineations per trustee are accepted on record, confirm.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Timothy J. Neuman

Represented By  
Joseph A Weber

**Movant(s):**

Timothy J. Neuman

Represented By  
Joseph A Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-11537    Raquel Mendoza Marquez**

**Chapter 13**

**#6.00    Confirmation Of Chapter 13 Plan  
(cont'd from 8-18-21)**

Docket      11

**\*\*\* VACATED \*\*\*    REASON: OFF CALENDAR - NOTICE THAT THE  
CASE HAS BEEN CONVERTED TO CHAPTER 7 FROM CHAPTER 13  
ON 8-30-21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Raquel Mendoza Marquez

Represented By  
Stephen S Smyth

**Movant(s):**

Raquel Mendoza Marquez

Represented By  
Stephen S Smyth

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-11581 Tiffany Michelle Freeman**

**Chapter 13**

**#7.00 Confirmation Of Chapter 13 Plan  
(cont'd from 8-18-21)**

Docket 2

**Tentative Ruling:**

Tentative for 9/15/21:

Arrears and student loan suggest that plan is infeasible. Status?

<b>Party Information</b>
--------------------------

**Debtor(s):**

Tiffany Michelle Freeman

Represented By  
Sara E Razavi

**Movant(s):**

Tiffany Michelle Freeman

Represented By  
Sara E Razavi

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-11610 Jesus Antonio Macapagal Koh**

**Chapter 13**

**#8.00 Confirmation Of Chapter 13 Plan**

Docket 2

**Tentative Ruling:**

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jesus Antonio Macapagal Koh

Represented By  
Hasmik Jasmine Papian

**Movant(s):**

Jesus Antonio Macapagal Koh

Represented By  
Hasmik Jasmine Papian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-11611 Mac Dilani**

**Chapter 13**

**#9.00 Confirmation Of Chapter 13 Plan**

Docket 2

**Tentative Ruling:**

Tentative for 9/15/21:

Apparently there was an effort to reopen previous case for purposes of avoiding liens, which must be dealt with as this plan does not provide for them. Status?

<b>Party Information</b>
--------------------------

**Debtor(s):**

Mac Dilani

Represented By  
Joseph A Weber  
Fritz J Firman

**Movant(s):**

Mac Dilani

Represented By  
Joseph A Weber  
Joseph A Weber  
Fritz J Firman  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-11748 Karen S Hernandez**

**Chapter 13**

**#10.00 Confirmation Of Chapter 13 Plan**

Docket 2

**Tentative Ruling:**

Tentative for 9/15/21:

Plan does not provide for two secured claims. #6 Finance of America and #3  
Sea Air FCU. Status?

<b>Party Information</b>
--------------------------

**Debtor(s):**

Karen S Hernandez

Represented By  
Charles W Daff

**Movant(s):**

Karen S Hernandez

Represented By  
Charles W Daff

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-11796 Carlos F. Montoya, Sr. and Ana E. Montoya**

**Chapter 13**

**#11.00 Confirmation Of Chapter 13 Plan**

Docket 2

**Tentative Ruling:**

Tentative for 9/15/21:

Objections of trustee and VW appear well taken. Status?

**Party Information**

**Debtor(s):**

Carlos F. Montoya Sr.

Represented By  
Michael D Franco

**Joint Debtor(s):**

Ana E. Montoya

Represented By  
Michael D Franco

**Movant(s):**

Carlos F. Montoya Sr.

Represented By  
Michael D Franco  
Michael D Franco  
Michael D Franco  
Michael D Franco

Ana E. Montoya

Represented By  
Michael D Franco  
Michael D Franco  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:21-11801 Durwin Julius Keck and Beverlee Gail Keck**

**Chapter 13**

**#12.00 Confirmation Of Chapter 13 Plan**

Docket 6

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR - CASE CONVERTED  
TO CHAPTER 7 ON 9-09-21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Durwin Julius Keck

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Beverlee Gail Keck

Represented By  
Anerio V Altman

**Movant(s):**

Durwin Julius Keck

Represented By  
Anerio V Altman

Beverlee Gail Keck

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



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**8:16-12742 David Wayne Horstman and Judy Rosemary Horstman**

**Chapter 13**

**#13.00 Trustee's Motion To Dismiss Case Due To Material Default Of A Plan Provision  
(cont'd from 8-18-21)**

Docket 59

**Tentative Ruling:**

Tentative for 9/15/21:  
See #14.

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Tentative for 8/18/21:  
See #17.

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Tentative for 7/28/21:  
See #19.

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Tentative for 5/19/21:  
See #17.1

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Tentative for 4/14/21:  
Is this moot depending on result of modification motion filed March 9?

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Tentative for 3/17/21:  
Grant unless feasibility issue cured or modification motion on file.

<b>Party Information</b>
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**CONT... David Wayne Horstman and Judy Rosemary Horstman**

**Chapter 13**

**Debtor(s):**

David Wayne Horstman

Represented By  
Michael Jones  
Sara Tidd

**Joint Debtor(s):**

Judy Rosemary Horstman

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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3:00 PM

**8:16-12742 David Wayne Horstman and Judy Rosemary Horstman**

**Chapter 13**

**#14.00** Motion Under Local Bankruptcy Rule 3015-1 (n) And (w) To Modify Plan Or  
Suspend Plan Payments  
**(cont'd from 8-18-21)**

Docket 68

**Tentative Ruling:**

Tentative for 9/15/21:

The trustee has made a compromise proposal, which might persuade the court, but we have no indication debtors are willing to amend as suggested. The major problem is the impact of the best interests test, which in turn depends on the home valuation. At Ascentium's number this should go a long way to paying creditors, and if the debtor could match this amount over time? Debtors have not placed themselves in the best light having unilaterally taken the tax refunds promised under the plan. Then there is the question of whether the court should covert the case instead; does Ascentium acknowledge debtors right to so do?

No tentative.

-----

Tentative for 8/18/21:

See ## 17 and 18.

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Tentative for 7/28/21:

The objections of Ascentium and the trustee are both well taken. Of paramount concern is the best interest of creditors' test. It appears that there may be equity sufficient to pay creditors in full from the residence, but no argument is given why a plan allowing a discount should be confirmed notwithstanding. Debtor asserts without any authority cited that the best interest test is timed as of the petition date, not the modification date. A dubious theory in the court's view. Of similar concern is the proposed

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**CONT... David Wayne Horstman and Judy Rosemary Horstman**

**Chapter 13**

absence of tax refunds, made even more problematic given the missing return. "TBD" for creditor recovery is not adequate under these circumstances.

Deny

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Tentative for 5/19/21:

Several serious issues are raised as mentioned by both the Trustee and Ascentium. Why should the debtors be excused from turning over tax refunds when they do not propose 100% payment?

<b>Party Information</b>
--------------------------

**Debtor(s):**

David Wayne Horstman

Represented By  
Michael Jones  
Sara Tidd

**Joint Debtor(s):**

Judy Rosemary Horstman

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:16-13679 Timothy Dale Cox and Diane Gloria Cox**

**Chapter 13**

**#15.00** Trustee's Motion to Dismiss Case Failure To Make Plan Payments.

Docket 117

**Tentative Ruling:**

Tentative for 9/15/21:  
Grant unless current.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Timothy Dale Cox

Represented By  
Thomas E Brownfield

**Joint Debtor(s):**

Diane Gloria Cox

Represented By  
Thomas E Brownfield

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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3:00 PM

**8:17-10413 Juan Bernal Torres**

**Chapter 13**

**#16.00** Trustee's Motion to Dismiss Case Due To Material Default Of A Plan Provision

Docket 111

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR - NOTICE OF  
VOLUNTARY DISMISSAL OF MOTION FILED 8-30-21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Juan Bernal Torres

Represented By  
Mark S Martinez

**Movant(s):**

Amrane (SA) Cohen (TR)

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:17-14526 Wendy K. McElfish**

**Chapter 13**

**#17.00** Trustee's Motion to Dismiss Case failure to make plan payments  
**(cont'd from 7-28-21)**

Docket 52

**Tentative Ruling:**

Tentative for 9/15/21:  
Grant unless current.

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Tentative for 7/28/21:  
See #22.

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Tentative for 6/16/21:  
See #14.

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Tentative for 5/19/21:  
See #20

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Tentative for 4/14/21:  
See #18.

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Tentative for 3/17/21:  
Grant unless current or modification motion on file.

**Party Information**

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**CONT... Wendy K. McElfish**

**Chapter 13**

**Debtor(s):**

Wendy K. McElfish

Represented By  
Joseph A Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



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**8:18-11129 Elvin Lorenzana and Somer Asako Shimada**

**Chapter 13**

**#18.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments.  
(cont'd from 8-18-21)**

Docket 100

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR - NOTICE OF  
WITHDRAWAL OF TRUSTEE'S MOTION FOR ORDER DISMISSING  
CHAPTER 13 FILED 9-13-21**

**Tentative Ruling:**

Tentative for 8/18/21:  
Grant absent modification motion on file.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Elvin Lorenzana

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Somer Asako Shimada

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:19-11329 Charles Ryan Prince and Vicky Priscilla Preston**

**Chapter 13**

**#19.00 Trustee's Motion to Dismiss Case failure to make plan payments  
(cont'd from 8-18-21)**

Docket 58

**Tentative Ruling:**

Tentative for 9/15/21:

Debtors promised either current status or modification. Status?

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Tentative for 8/18/21:

Grant absent current status or modification motion on file.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Charles Ryan Prince

Represented By  
Barry E Borowitz

**Joint Debtor(s):**

Vicky Priscilla Preston

Represented By  
Barry E Borowitz

**Trustee(s):**

Amrane (SA) Cohen (TR)

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**8:19-11810 Helen Ojeda**

**Chapter 13**

**#20.00** Trustee's Motion to Dismiss Case Failure To Make Plan Payments.  
**(cont'd from 8-18-21)**

Docket 68

**Tentative Ruling:**

Tentative for 9/15/21:

Where do we stand in view of modification motion filed August 11?

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Tentative for 8/18/21:

Continue to allow hearing on modification filed August 11.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Helen Ojeda

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:19-12290    Jorge Alberto Barreda**

**Chapter 13**

**#21.00    Trustee's Motion To Dismiss Case Failure To Make Plan Payments.**

Docket      85

**Tentative Ruling:**

Tentative for 9/15/21:  
Grant unless current.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Jorge Alberto Barreda

Represented By  
Amanda G. Billyard  
Richard L. Sturdevant

**Trustee(s):**

Amrane (SA) Cohen (TR)

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**8:19-12479    Judie Kay Brust**

**Chapter 13**

**#22.00    Trustee's Motion To Dismiss Case Failure To Make Plan Payments**

Docket      50

**Tentative Ruling:**

Tentative for 9/15/21:  
Grant unless current or motion to modify on file.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Judie Kay Brust

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

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**8:19-14502    Andy T. Torres**

**Chapter 13**

**#23.00    Trustee's Motion to Dismiss Case failure to make plan payments  
(cont'd from 8-18-21)**

Docket      99

**Tentative Ruling:**

Tentative for 9/15/21:  
Grant unless current or motion to modify on file.

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Tentative for 8/18/21:  
Grant absent current status or modification motion on file.

<b>Party Information</b>
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**Debtor(s):**

Andy T. Torres

Represented By  
Richard G Heston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, September 15, 2021**

**Hearing Room**

**5B**

3:00 PM

**8:20-10655 Jose Magana**

**Chapter 13**

**#24.00** Trustee's Motion to Dismiss Case failure to make plan payments  
(cont'd from 8-18-21)

Docket 45

**Tentative Ruling:**

Tentative for 9/15/21:

Where do we stand on promised modification and claim objection?

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Tentative for 8/18/21:

Grant absent successful objection which would bring into compliance or  
modification motion on file.

<b>Party Information</b>
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**Debtor(s):**

Jose Magana

Represented By  
Scott Dicus

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Theodor Albert, Presiding  
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**Wednesday, September 15, 2021**

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**8:18-10770 Timothy N Shorts and Darlene Long-Shorts**

**Chapter 13**

**#25.00** Trustee's Motion to Determine Mortgage Fees and Expenses re: Rule 3002.1 ;  
Request for Accounting

Docket 80

**Tentative Ruling:**

Tentative for 9/15/21:

This is the chapter 13 trustee's ("Trustee") Motion to Determine Mortgage Fees and Expenses re: Rule 3002.1; and Request for Accounting. The motion is opposed by secured creditor, Laurelwood Homeowners Association ("Creditor").

**1. Background**

Debtors, Timothy Shorts and Darlene Long-Shorts ("Debtors") commenced this case as a chapter 13 on March 6, 2018 (the "Filing Date"). On April 3, 2018, Creditor filed a proof of claim as Claims Register No. 02, asserting a secured claim of \$10,315.88. Exhibit A. On August 7, 2018, the 3d Amended Plan [Docket No. 45] (the "Plan") was confirmed [Docket No. 52]. Per the terms of the Plan, Creditor's claim was to be paid in full through Class 3B. To date, the Trustee has disbursed \$10,315.88 on Laurelwood's claim.

On October 29, 2020, Creditor filed the October 2020 Fee Notice. In this notice, Creditor asserts Attorney Fees in the amount of \$7,012.65 which were incurred between the dates of 07/02/2019 and 10/26/2020. No other fees, expenses, or charges are asserted in this notice. On June 18, 2021, Creditor filed the June 2021 Fee Notice. In this notice, Creditor asserts Attorney Fees in the amount of \$6,562.97 which were incurred between the dates of 04/30/2020 and 06/01/2021. No other fees, expenses, or charges are asserted in this notice. On June 18, 2021, Creditor filed an amended proof of claim asserting a secured amount of \$23,891.50 (more than doubling the original claim). According to the supplement attached to the amended



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**CONT...**

**Timothy N Shorts and Darlene Long-Shorts**

**Chapter 13**

proof of claim, the basis for the increased amount of the proof of claim is: (a) \$800 for attorney fees to prepare the amended proof of claim; (b) \$7,012.65 for attorney's fees and costs; and (c) \$6,592.97 for attorney's fees and costs.

## **2. Trustee's Standing**

Creditor challenges Trustee's standing to bring this motion. Specifically, Creditor points to Part II, Section I(E) of the Plan, which states:

"In the event that secured creditor(s) file a Notice of Postpetition Fees and Costs pursuant to FRBP 3002.1(c), the Chapter 13 Trustee is authorized, but not required, to commence paying those charges 90 days after that notice is filed, unless within that time the Debtor contests those charges by filing a motion to determine payment under FRBP 3002.1(e)..."

Creditor argues that nothing in this section of the plan grants Trustee the power to challenge the Notice of Post-petition Fees and Costs. Instead, Creditor argues, that power is specifically limited to Debtors. Here, Creditor asserts, Debtors did not object, and the amounts should have been added to the claim by Trustee.

In reply Trustee points out that pursuant to Fed. R. Bankr. P. 3002.1(e), standing to bring this type of motion is conferred upon any party in interest. Specifically, this subsection states:

"On motion of a party in interest filed within one year after service of a notice under subdivision (c) of this rule, the court shall, after notice and hearing, determine whether payment of any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law to cure a default or maintain payments in accordance with §1322(b)(5) of the Code."

Trustee argues that he qualifies as a party in interest as he is the representative of the estate. Trustee also points out that nothing in the plan supersedes the above quoted subsection. Trustee is likely correct, and the

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court finds that he has standing to bring this motion.

**Chapter 13**

**3. Should the Fees, Expenses, and Charges In The Fee Notices  
Be Allowed?**

Trustee argues that a Notice of Postpetition Mortgage Fees, Expenses, and Charges is properly regarded as a supplement to a proof of claim. However, Trustee argues that pursuant to Fed. R. Bankr. P. 3002.1(c):

"The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice itemizing all fees, expenses, or charges (1) that were incurred in connection with the claim after the bankruptcy case was filed, and (2) that the holder asserts are recoverable against the debtor or against the debtor's principal residence. **The notice shall be served within 180 days after the date on which the fees, expenses, or charges are incurred.**"  
(Emphasis added)

Here, Trustee points out that the October 2020 Fee Notice filed October 29, 2020 asserts attorney fees of \$7,012.65 which were incurred between the dates of 07/02/2019 and 10/26/2020. Trustee argues that under Fed. R. Bankr. P. 3002.1(c), only fees, expenses, and charges incurred within 180 days before the filing of the October 2020 Fee Notice are allowable. As 180 days prior to October 29, 2020 was May 2, 2020, Trustee argues that any fees, expenses, and charges prior to that date are not allowable. Similarly, Trustee argues that any fees, expenses, and charges incurred more than 180 days before the filing of the June 18, 2021 Fee Notice are not allowable. In the reply, Trustee notes that the charges falling outside the 180-day window for the October 2020 Fee Notice were incurred between July 2, 2019 and May 2, 2020 and total \$2,044.00. As to the June 2020 Fee Notice, charges incurred between October 29, 2020 and December 20, 2020 are outside the 180-day window and total \$886.00.

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As to the charges that fall within the 180-day window, Trustee asserts that several of the billing entries are for tasks that could be considered clerical or administrative in nature and argues that such charges should be discounted. Trustee's Exhibit C contains a copy of the time entries with notations on certain time entries flagged as either administrative or clerical tasks. By the court's count, the charges flagged as clerical or administrative total \$3,993(?).

Finally, Trustee argues that the billed expenses prior to May 2, 2020 of \$25.22 and expenses between October 29, 2020 through December 20, 2020 of \$8.70 should be disallowed, and the allowable expenses labeled as "interest" in the amount of \$20.32 should be disallowed.

In opposition, Creditor argues that, contrary to Trustee's opinion, the filing of a Fee Notice was not required here under Fed. R. Bankr. P. 3002.1(a). This rule states in relevant part, "This rule applies in a chapter 13 case to claims (1) that are secured by a security interest in the debtor's principal residence, and (2) for which the plan provides that either the trustee or the debtor will make contractual installment payments." Creditor asserts that although it has a secured claim, the plan does not provide for contractual installment payments. Creditor asserts that, here, the Third Amended Chapter 13 Plan only lists the mortgage holder under Class 2 claims. Class 2 is the section that states the debtor will maintain and make the current contractual installment payments on secured claims. Creditor asserts that its claim falls under Class 3B, which is simply secured claims excluded from 11 U.S.C. § 506. Thus, Creditor concludes, Fed. R. Bankr. P. 3002.1(a) does not apply. Finally, Creditor asserts that nothing in the breakdown of attorney's fees and expenses is extraordinary or excessive, but rather the entries are quite routine.

In reply, Trustee notes asserts that there is, in fact, a contract which Debtors signed obligating them to make the post-petition payments to Creditor. That contract is the Planned Unit Development Rider ("PUD Rider") attached to the proof of claim filed by Citibank, N.A. as proof of claim no. 09. The question is whether that complies with the provision of Rule 3002.1(a)(2) which speaks to what the *plan* provides. As to the class designation asserted by Creditor, Trustee argues that taken to its logical conclusion, Creditor's

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**Timothy N Shorts and Darlene Long-Shorts**

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argument would result in the binding effect of confirmation under 11 U.S.C. § 1327 rendering null any requirement for Debtors to make any post-petition payments to Creditor during the term of the plan. Furthermore, Trustee argues that a homeowner's association's secured claim where there is a pre-petition default is treated in the plan under 11 U.S.C. § 1322(b)(5) in precisely the same manner as a home mortgage. Pre-petition arrears to a homeowner's association, Trustee asserts, are cured via the plan and ongoing post-petition payments are made by either the debtor as a direct payment or by the Trustee as a conduit. If such post-petition payments are not made, Trustee argues, a homeowner's association could seek relief from the automatic stay to pursue its state law remedies. In the case of a homeowner's association, Trustee points out, post-petition payments come due indefinitely and the obligation to make these payments long outlast the term of any chapter 13 plan. Trustee asserts that, like a home mortgage, a debtor in chapter 13 faces a threat to their "fresh start" if, after completing their plan, they face exorbitant fees, costs, and charges for which, under Creditor's interpretation, no notice need be given, and which results in a post-discharge debt for clerical and administrative tasks which could be impossible for a debtor to cure. Trustee argues that preventing this outcome is precisely the reason Fed. R. Bankr. P. 3002.1 was created. Again, Trustee is likely correct here although the argument is a bit ragged based on the language of the Rule. But clearly the policy argument is a compelling one.

The only remaining issue is the reasonableness of the charges, and particularly those charges flagged by Trustee as being mainly administrative or clerical. Many of the entries flagged are likely *de minimis* in both time spent and value (most are .2 hours or less). The court agrees with Trustee to some extent in that some of the tasks performed by attorneys should perhaps have been performed by a paralegal or even non-billing staff. However, there are relatively few of these entries such that reductions of such little value seem almost arbitrary; and Trustee does not offer much in the way of analysis of the "suspect" time entries. But the court is very troubled by the overall impact of what claimant is proposing here, not necessarily limited to the sole issue of paralegal/staff vs lawyer's time. In plain terms, this homeowner's association **is doubling its claim** via fees charged and it is rather hard to see why any of this was truly necessary, at least not at these rates, and certainly not to

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**CONT... Timothy N Shorts and Darlene Long-Shorts**

**Chapter 13**

double the claim. Was there ever an existential threat to the claim, requiring lawyer intervention? While it is, one supposes, good that lawyers report periodically to their client's volunteer board, there was no apparent effort here to tailor those services to anything truly requiring an attorney's time or to right size them in view of the overall claim. It looks more like routine billings without much forethought or concern about the cumulative effect. Thus, the court favors arbitrary reduction in the attorney's fees that are indisputably inside the 180-day window, but if that reduction is not accepted then a second look must be had as to the rates and the true need for attorney's time. As to the fees incurred prior to the 180-day window, Creditor apparently does not dispute Trustee's assertion that those fees should be disallowed entirely pursuant to Fed. R. Bankr. P. 3002.1(c).

*Disallow attorney's fees and expenses incurred outside the 180-day window for both the October 2020 and June 2021 Fee Notices (totaling reduction of \$2,966.24). Allow all remaining attorney's fees inside the 180-day window in the lump sum of \$6000. All other claims are disallowed.*

<b>Party Information</b>
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**Debtor(s):**

Timothy N Shorts

Represented By  
William R Cumming

**Joint Debtor(s):**

Darlene Long-Shorts

Represented By  
William R Cumming

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**8:13-14107 Mitchell C Brantley, III**

**Chapter 13**

**#26.00** Debtor's Motion to Avoid Junior Lien with CIT SMALL BUSINESS Lending Corp.

Docket 74

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10-20-21 AT 3:00 P.M.  
PER ORDER APPROVING STIPULATION TO CONTINUE HEARING  
ON DEBTOR'S MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL  
RESIDENCE ENTERED 9-14-21**

**Tentative Ruling:**

<b>Party Information</b>
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**Debtor(s):**

Mitchell C Brantley III

Represented By  
Thomas J Tedesco  
Michael Smith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:20-11560 Joe Anthony Santa Maria**

**Chapter 13**

**#27.00** Debtor Joe Santa Maria's Objection To The Time-Barred Claim Of American Express National Bank (Claim #1)

Docket 120

**Tentative Ruling:**

Tentative for 9/15/21:  
Sustain. Appearance: optional

<b>Party Information</b>
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**Debtor(s):**

Joe Anthony Santa Maria

Represented By  
Nicholas W Gebelt  
M. Jonathan Hayes

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**8:20-11560 Joe Anthony Santa Maria**

**Chapter 13**

**#28.00 Debtor Joe Santa Maria's Objection To Assertion Of Secured Status In The Claim Of The Internal Revenue Service (Claim #2)**

Docket 121

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR - JOE ANTHONY  
SANTA MARIA'S WITHDRAWAL OF DOCKET ENTRY 121, THE  
OBJECTION TO CLAIM 2 FILED 9-07-21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Joe Anthony Santa Maria

Represented By  
Nicholas W Gebelt  
M. Jonathan Hayes

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



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**8:21-10242 Thomas Richard Reynolds**

**Chapter 13**

**#29.00** Motion For Contempt Pursuant To 11 USC Sec. 105 As Against Anna Padilla, John Padilla, Denise Almanza And Jessie Almanza For Violating The Court's Confirmation Order Entered July 2nd, 2021 As Docket #100

Docket 109

**Tentative Ruling:**

Tentative for 9/15/21:

This is a contempt motion for violation of the Chapter 13 confirmation order of July 2, 2021 brought against Anna and John Padilla and Denise and Jessie Almanza. Reportedly, the alleged contemnors pursued a smalls claims action notwithstanding debtor's discharge in a prior Chapter 7 case, despite being warned that this was unlawful. Whether the discharge was effective is a bit unclear as the claims were not listed and so there might be an implication under §523(a)(3), but that point is not well developed in this record and so no opinion is offered. Reportedly, claims filed in the present case were disallowed when the claimants did not appear to defend the objections. Also reportedly, there are pending dischargeability actions filed, but the status of those actions is also left unclear. It is rather obvious that claimants and alleged contemnors are frustrated by the legal maze they find themselves in over what they regard as righteous claims against defendant to recover costs and damages allegedly he caused. But this legal system is bound in procedure and claimants in *pro se* have, predictably, been caught up in it without clear direction as to how to proceed. But this is not to excuse proceeding without obtaining advice into the legal minefield. The court's orders are not mere suggestions. The court finds contempt in their willful violation of the court's July 2, 2021 order. But the court will impose only a small penalty at this time, \$50 per contemnor (to help defray costs), with the understanding that upon payment of these sums to debtor's attorney by November 1, 2021, this matter of proceedings despite the court's order will cease. This is without prejudice to any proper proceeding in the alleged pending dischargeability actions.

Further contempt proceedings, however, should they become necessary, will not be treated as lightly. Appearance: required.

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**Thomas Richard Reynolds**

**Chapter 13**

<b>Party Information</b>
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**Debtor(s):**

Thomas Richard Reynolds

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se